

# COMMITTEE REPORT

---

## MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 133, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 34-24-1-1, AS AMENDED BY P.L.114-2008,
- 4 SECTION 27, AND AS AMENDED BY P.L.119-2008, SECTION 13,
- 5 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The following may be seized:
- 7 (1) All vehicles (as defined by IC 35-41-1), if they are used or
- 8 are intended for use by the person or persons in possession of
- 9 them to transport or in any manner to facilitate the transportation
- 10 of the following:
- 11 (A) A controlled substance for the purpose of committing,
- 12 attempting to commit, or conspiring to commit any of the
- 13 following:
- 14 (i) Dealing in or manufacturing cocaine or a narcotic
- 15 drug (IC 35-48-4-1).
- 16 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- 17 (iii) Dealing in a schedule I, II, or III controlled
- 18 substance (IC 35-48-4-2).
- 19 (iv) Dealing in a schedule IV controlled substance
- 20 (IC 35-48-4-3).
- 21 (v) Dealing in a schedule V controlled substance
- 22 (IC 35-48-4-4).
- 23 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
- 24 (vii) Possession of cocaine or a narcotic drug (IC
- 25 35-48-4-6).
- 26 (viii) Possession of methamphetamine (IC

- 1 35-48-4-6.1).
- 2 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
- 3 (x) Dealing in marijuana, hash oil, or hashish
- 4 (IC 35-48-4-10).
- 5 (B) Any stolen (IC 35-43-4-2) or converted property
- 6 (IC 35-43-4-3) if the retail or repurchase value of that
- 7 property is one hundred dollars (\$100) or more.
- 8 (C) Any hazardous waste in violation of ~~IC 13-30-10-4~~
- 9 ~~IC 13-30-10-1.5~~.
- 10 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of
- 11 mass destruction (as defined in IC 35-41-1-29.4) used to
- 12 commit, used in an attempt to commit, or used in a
- 13 conspiracy to commit an offense under IC 35-47 as part of
- 14 or in furtherance of an act of terrorism (as defined by
- 15 IC 35-41-1-26.5).
- 16 (2) All money, negotiable instruments, securities, weapons,
- 17 communications devices, or any property used to commit, used
- 18 in an attempt to commit, or used in a conspiracy to commit an
- 19 offense under IC 35-47 as part of or in furtherance of an act of
- 20 terrorism or commonly used as consideration for a violation of
- 21 IC 35-48-4 (other than items subject to forfeiture under
- 22 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
- 23 (A) furnished or intended to be furnished by any person in
- 24 exchange for an act that is in violation of a criminal statute;
- 25 (B) used to facilitate any violation of a criminal statute; or
- 26 (C) traceable as proceeds of the violation of a criminal
- 27 statute.
- 28 (3) Any portion of real or personal property purchased with
- 29 money that is traceable as a proceed of a violation of a criminal
- 30 statute.
- 31 (4) A vehicle that is used by a person to:
- 32 (A) commit, attempt to commit, or conspire to commit;
- 33 (B) facilitate the commission of; or
- 34 (C) escape from the commission of;
- 35 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 36 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child
- 37 molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4),
- 38 or an offense under IC 35-47 as part of or in furtherance of an act
- 39 of terrorism.
- 40 (5) Real property owned by a person who uses it to commit any
- 41 of the following as a Class A felony, a Class B felony, or a Class
- 42 C felony:
- 43 (A) Dealing in or manufacturing cocaine or a narcotic drug
- 44 (IC 35-48-4-1).
- 45 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 46 (C) Dealing in a schedule I, II, or III controlled substance
- 47 (IC 35-48-4-2).
- 48 (D) Dealing in a schedule IV controlled substance
- 49 (IC 35-48-4-3).
- 50 (E) Dealing in marijuana, hash oil, or hashish (IC

- 1 35-48-4-10).
- 2 (6) Equipment and recordings used by a person to commit fraud
- 3 under IC 35-43-5-4(10).
- 4 (7) Recordings sold, rented, transported, or possessed by a
- 5 person in violation of IC 24-4-10.
- 6 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
- 7 defined by IC 35-45-6-1) that is the object of a corrupt business
- 8 influence violation (IC 35-45-6-2).
- 9 (9) Unlawful telecommunications devices (as defined in
- 10 IC 35-45-13-6) and plans, instructions, or publications used to
- 11 commit an offense under IC 35-45-13.
- 12 (10) Any equipment, *used or intended for use in preparing,*
- 13 *photographing, recording, videotaping, digitizing, printing,*
- 14 *copying, or disseminating matter in violation of IC 35-42-4-4.*
- 15 *including computer equipment and cellular telephones, used for*
- 16 *or intended for use in preparing, photographing, recording,*
- 17 *videotaping, digitizing, printing, copying, or disseminating*
- 18 *matter in violation of IC 35-42-4.*
- 19 (11) Destructive devices used, possessed, transported, or sold in
- 20 violation of IC 35-47.5.
- 21 (12) Tobacco products that are sold in violation of IC 24-3-5,
- 22 tobacco products that a person attempts to sell in violation of
- 23 IC 24-3-5, and other personal property owned and used by a
- 24 person to facilitate a violation of IC 24-3-5.
- 25 (13) Property used by a person to commit counterfeiting or
- 26 forgery in violation of IC 35-43-5-2.
- 27 (14) After December 31, 2005, if a person is convicted of an
- 28 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
- 29 following real or personal property:
  - 30 (A) Property used or intended to be used to commit,
  - 31 facilitate, or promote the commission of the offense.
  - 32 (B) Property constituting, derived from, or traceable to the
  - 33 gross proceeds that the person obtained directly or
  - 34 indirectly as a result of the offense.
- 35 (15) Except as provided in subsection (e), a motor vehicle used
- 36 by a person who operates the motor vehicle:
  - 37 (A) while intoxicated, in violation of IC 9-30-5-1 through
  - 38 IC 9-30-5-5, if in the previous five (5) years the person has
  - 39 two (2) or more prior unrelated convictions:
    - 40 (i) for operating a motor vehicle while intoxicated in
    - 41 violation of IC 9-30-5-1 through IC 9-30-5-5; or
    - 42 (ii) for an offense that is substantially similar to
    - 43 IC 9-30-5-1 through IC 9-30-5-5 in another
    - 44 jurisdiction; or
  - 45 (B) on a highway while the person's driver's license is
  - 46 suspended in violation of IC 9-24-19-2 through
  - 47 IC 9-24-19-4, if in the previous five (5) years the person has
  - 48 two (2) or more prior unrelated convictions:
    - 49 (i) for operating a motor vehicle while intoxicated in
    - 50 violation of IC 9-30-5-1 through IC 9-30-5-5; or

1 (ii) for an offense that is substantially similar to  
 2 IC 9-30-5-1 through IC 9-30-5-5 in another  
 3 jurisdiction.

4 If a court orders the seizure of a motor vehicle under this  
 5 subdivision, the court shall transmit an order to the bureau of  
 6 motor vehicles recommending that the bureau not permit a motor  
 7 vehicle to be registered in the name of the person whose motor  
 8 vehicle was seized until the person possesses a current driving  
 9 license (as defined in IC 9-13-2-41).

10 **(16) All real or personal property, including a vehicle, that is**  
 11 **used by a person to commit, attempt to commit, or conspire**  
 12 **to commit assisting an act of terrorism under IC 35-45-1-5.**

13 (b) A vehicle used by any person as a common or contract carrier  
 14 in the transaction of business as a common or contract carrier is not  
 15 subject to seizure under this section, unless it can be proven by a  
 16 preponderance of the evidence that the owner of the vehicle knowingly  
 17 permitted the vehicle to be used to engage in conduct that subjects it to  
 18 seizure under subsection (a).

19 (c) Equipment under subsection (a)(10) may not be seized unless  
 20 it can be proven by a preponderance of the evidence that the owner of  
 21 the equipment knowingly permitted the equipment to be used to engage  
 22 in conduct that subjects it to seizure under subsection (a)(10).

23 (d) Money, negotiable instruments, securities, weapons,  
 24 communications devices, or any property commonly used as  
 25 consideration for a violation of IC 35-48-4 found near or on a person  
 26 who is committing, attempting to commit, or conspiring to commit any  
 27 of the following offenses shall be admitted into evidence in an action  
 28 under this chapter as prima facie evidence that the money, negotiable  
 29 instrument, security, or other thing of value is property that has been  
 30 used or was to have been used to facilitate the violation of a criminal  
 31 statute or is the proceeds of the violation of a criminal statute:

32 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a  
 33 narcotic drug).

34 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

35 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled  
 36 substance).

37 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

38 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)  
 39 as a Class B felony.

40 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a  
 41 Class A felony, Class B felony, or Class C felony.

42 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class  
 43 A felony, Class B felony, or Class C felony.

44 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as  
 45 a Class C felony.

46 (e) A motor vehicle operated by a person who is not:

47 (1) an owner of the motor vehicle; or

48 (2) the spouse of the person who owns the motor vehicle;

49 is not subject to seizure under subsection (a)(15) unless it can be  
 50 proven by a preponderance of the evidence that the owner of the

vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a)(15).

SECTION 2. IC 35-45-6-1, AS AMENDED BY P.L.3-2008, SECTION 253, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- (9) Child exploitation (IC 35-42-4-4).
- (10) Robbery (IC 35-42-5-1).
- (11) Carjacking (IC 35-42-5-2).
- (12) Arson (IC 35-43-1-1).
- (13) Burglary (IC 35-43-2-1).
- (14) Theft (IC 35-43-4-2).
- (15) Receiving stolen property (IC 35-43-4-2).
- (16) Forgery (IC 35-43-5-2).
- (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- (18) Bribery (IC 35-44-1-1).
- (19) Official misconduct (IC 35-44-1-2).
- (20) Conflict of interest (IC 35-44-1-3).
- (21) Perjury (IC 35-44-2-1).
- (22) Obstruction of justice (IC 35-44-3-4).
- (23) Intimidation (IC 35-45-2-1).

- (24) Promoting prostitution (IC 35-45-4-4).
- (25) Professional gambling (IC 35-45-5-3).
- (26) Maintaining a professional gambling site (IC 35-45-5-3.5(b)).
- (27) Promoting professional gambling (IC 35-45-5-4).
- (28) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (29) Dealing in or manufacturing methamphetamine (IC 35-48-4-1.1).
- (30) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (31) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (33) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- (34) Money laundering (IC 35-45-15-5).
- (35) A violation of IC 35-47.5-5.
- (36) Assisting an act of terrorism (IC 35-45-1-5).**

SECTION 3. IC 35-45-1-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. A person who:**

- (1) knowingly, intentionally, or recklessly allows another person to obtain access to or otherwise use real or personal property owned or under the control of the person; and**
- (2) either:**
  - (A) knows that the other person is using or will use; or**
  - (B) intends that the other person use or will use;**
- the real or personal property to promote, facilitate, prepare to commit, or commit an act of terrorism;**

**commits assisting an act of terrorism, a Class C felony.**

SECTION 4. [EFFECTIVE JULY 1, 2009] **This act applies only to crimes committed after June 30, 2009.**

(Reference is to SB 133 as introduced.)

**and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.**

---

LONG, Chairperson